

FILED

2008 DEC 16 PM 4:04

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY \_\_\_\_\_ DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

YOUNG HWAN KIM,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. 07cr0152 JM  
CIVIL NO. 07cv2207 JM

**ORDER DENYING MOTION FOR  
RULE 60(B) RELIEF**

On or about December 5, 2008 the Clerk of Court received two motions from Petitioner: a motion to amend the §2255 petition and a Rule 60(b) motion to reconsider this court's October 27, 2008 Order Denying Motion to Vacate and Correct Sentence Pursuant to 28 U.S.C. §2255 ("Order").<sup>1</sup> "Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law. There may also be other, highly unusual, circumstances warranting reconsideration." School Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993) (citations omitted), cert. denied, 114 S. Ct. 2742 (1994).


Here, Petitioner fails to identify any newly discovered evidence, clear error, or intervening change in controlling law. Rather, as set forth in the original Petition,

<sup>1</sup> By separate discrepancy order the court rejected for filing Petitioner's motion to amend.

1 Petitioner argues that he was provided ineffective assistance of counsel. As Petitioner  
2 raises no new arguments, the court denies the motion to reconsider this court's Order.

3 **IT IS SO ORDERED.**

4 DATED: 12/15, 2008

5   
6 **JEFFREY T. MILLER**  
United States District Judge

7 cc: All parties  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28